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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

WILLIE WEAVER,

NO. C 04-4784 JW PR

Plaintiff(s),
v.

**ORDER DENYING FED.R.APP.P. 4(a)(4)
MOTION**

PELICAN BAY STATE PRISON,

docket no. 12

Defendant(s).

Plaintiff, an inmate at Pelican Bay State Prison and frequent litigant in this Court, filed a pro

se civil rights complaint under 42 U.S.C. § 1983, alleging that he has been unable to obtain a “119
log” of his legal mail. On May 9, 2005, the Court dismissed the complaint for failure to state a claim
and entered judgment.

Between May 31, 2005 and November of 2005, Plaintiff filed an “objection” (docket no. 12,
filed May 31, 2005), numerous motions, and eventually a notice of appeal. While the case was on
appeal, Plaintiff continued to file a few more motions in this Court. On May 22, 2006, the Court
issued an order denying motions docketed as numbers 13, 14, 15, 17, and 19; the order, however, did
not address the “objection” filed May 31, 2005.

On June 19, 2006, the Ninth Circuit issued an order holding the appeal in abeyance pending
this Court’s resolution of what it characterized as a Federal Rule of Appellate Procedure 4(a)(4)

Order Denying Fed.R.App.P. 4(a)(4) Motion
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1 motion, pending as of May 31, 2006. This Court presumes that the motion referred to by the Ninth
2 Circuit is the “objection” filed May 31, 2005, because there is no pending motion filed May 31,
3 2006.

4 Having reviewed the “objection” filed May 31, 2005, and construing it as a Rule 4(a)(4)
5 motion in accordance with the Ninth Circuit, this Court DENIES the motion. As the Court
6 previously held, Plaintiff does not have a constitutional right to a 119 mail log.

7 The case may now proceed on appeal. The Clerk shall forward the official file accordingly.

8 Dated: August 11, 2006

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JAMES WARE
United States District Judge

For the Northern District of California
Order Denying Fed.R.App.P. 4(a)(4) Motion
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1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2
3 Willie Weaver
4 J-91389 4-B-C-8-201
5 California Correctional Institution-Tehachapi
P. O. Box 1906
Tehachapi, Ca 93581

6
7 **Dated: August 11, 2006**

Richard W. Wiking, Clerk

8
9 By: *R.W. Wiking*
10 **Courtroom Deputy**

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United States District Court

For the Northern District of California
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